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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,438	02/02/2001	Peter Snawerdt	514.1003	9409

7590 11/28/2005

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EXAMINER	
PHAN, HANH	

ART UNIT	PAPER NUMBER
2638	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/776,438	SNAWERDT, PETER	
	Examiner	Art Unit	
	Hanh Phan	2638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 February 2001*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-10,15-18,20-23,25 and 26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-3, 5-8, 15-18, 20-23, 25 and 26* is/are allowed.

6)☒ Claim(s) *9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 09/09/2005.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 9 and 10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 09/809,936 (Snawerdt) in view of Duncan et al (US Patent No. 6,459,517).

Regarding claim 9, Snawerdt (copending Application No. 09/809,936) discloses a card for transmitting data over at least one optical fiber, the card comprising:

a transmitter having at least one light source and a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and

a receiver having an interferometer for reading received optical signals (see claims 1-6 of Snawerdt).

Snawerdt differs from claim 9 in that he fails to disclose a faceplate having a fiber tap signal device for indicating a fiber tap. However, Duncan discloses a faceplate (46, Fig. 1) having a fiber tap signal device (38, Fig. 1) for indicating a fiber tap (Figs. 1, 3 and 4, col. 7, lines 12-23 and col. 8, lines 16-30). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the faceplate having a fiber tap signal device for indicating a fiber tap as taught by Duncan in the system of Snawerdt. One of ordinary skill in the art would have been motivated to do this since Duncan suggests in column 7, lines 12-23 and col. 8, lines 16-30 that using such the faceplate having a fiber tap signal device for indicating a fiber tap has advantage of allowing holding the fiber input and the fiber output.

Regarding claim 10, the combination of Snawerdt and Duncan teaches the card is a replacement part for an existing optical multiplexer (Fig. 1 of Duncan).

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan et al (US Patent No. 6,459,517) in view of Hansen et al (US Patent No. 6,271,950).

Regarding claim 9, referring to Figures 1, 3 and 4, a card for transmitting data over at least one optical fiber, the card comprising:

a transmitter having at least one light source (i.e., light source 34, Fig. 1);

a receiver (i.e., light receiver 32, Fig. 1); and

a faceplate (i.e., faceplate 46, Fig. 1) having a fiber tap signal device (38, Fig. 1) for indicating a fiber tap (col. 7, lines 12-23 and col. 8, lines 16-30).

Duncan differs from claim 9 in that he fails to teach the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals. However, Hansen in US Patent No. 6,271,950 teaches an optical transmitter further having a phase modulator (i.e., phase modulator 106, Fig. 1) for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and a receiver (i.e., optical receiver 104, Fig. 1) having an interferometer (i.e., splitter 115, delay line 110, combiner 116, Fig. 1) for reading received optical signals (col. 2, lines 30-67, col. 3, lines 1-67 and col. 4, lines 1-57). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals

in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals as taught by Hansen in the system of Duncan. One of ordinary skill in the art would have been motivated to do this since Hansen suggests in column 2, lines 30-67, col. 3, lines 1-67 and col. 4, lines 1-57 that using such the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals have advantage of allowing providing time division multiplexing, channel routing and channel add/ replace functions and providing a flexible way of allocating bandwidth among multiple users.

Regarding claim 10, the combination of Duncan and Hansen teaches the card is a replacement part for an existing optical multiplexer (Fig. 1 of Duncan).

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan et al (US Patent No. 6,459,517) in view of Hakki et al (US Patent No. 6,549,311).

Regarding claim 9, referring to Figures 1, 3 and 4, a card for transmitting data over at least one optical fiber, the card comprising:

a transmitter having at least one light source (i.e., light source 34, Fig. 1);

a receiver (i.e., light receiver 32, Fig. 1); and

a faceplate (i.e., faceplate 46, Fig. 1) having a fiber tap signal device (38, Fig. 1) for indicating a fiber tap (col. 7, lines 12-23 and col. 8, lines 16-30).

Duncan differs from claim 9 in that he fails to teach the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals. However, Hakki in US Patent No. 6,549,311 teaches an optical transmitter further having a phase modulator (i.e., phase modulator 145a, Fig. 1) for phase modulating light from the source (i.e., laser 135a, Fig. 1) so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and a receiver (i.e., optical receiver 155a, Fig. 1) having an interferometer (i.e., interferometer 150a, Fig. 1) for reading received optical signals (col. 2, lines 30-67, col. 3, lines 1-67 and col. 4, lines 1-57). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals as taught by Hakki in the system of Duncan. One of ordinary skill in the art would have been motivated to do this since Hakki suggests in column 2, lines 45-67, col. 3, lines 1-36 that using such the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals have advantage of allowing providing time division multiplexing, channel

routing and channel add/ replace functions and providing a flexible way of allocating bandwidth among multiple users.

Regarding claim 10, the combination of Duncan and Hakki teaches the card is a replacement part for an existing optical multiplexer (Fig. 1 of Duncan).

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan et al (US Patent No. 6,459,517) in view of Fuse et al (US Patent No. 6,335,814).

Regarding claim 9, referring to Figures 1, 3 and 4, a card for transmitting data over at least one optical fiber, the card comprising:

a transmitter having at least one light source (i.e., light source 34, Fig. 1);

a receiver (i.e., light receiver 32, Fig. 1); and

a faceplate (i.e., faceplate 46, Fig. 1) having a fiber tap signal device (38, Fig. 1) for indicating a fiber tap (col. 7, lines 12-23 and col. 8, lines 16-30).

Duncan differs from claim 9 in that he fails to teach the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals. However, Fuse in US Patent No. 6,335,814 teaches an optical transmitter further having a phase modulator (i.e., phase modulator 203 and 204, Fig. 2) for phase modulating light from the source (i.e., light source 201, Fig. 2) so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and a receiver (i.e.,

optical receiver 4, Fig. 2) having an interferometer (i.e., interferometer 6, Fig. 1) for reading received optical signals (col. 18, lines 50-67 and col. 19, lines 1-31). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals as taught by Fuse in the system of Duncan. One of ordinary skill in the art would have been motivated to do this since Fuse suggests in column 18, lines 50-67, col. 19, lines 1-31 that using such the transmitter further having a phase modulator for phase modulating light from the source so as to create phase-modulated optical signals in the light as a function of an input electronic data stream, and the receiver having an interferometer for reading received optical signals have advantage of allowing providing time division multiplexing, channel routing and channel add/ replace functions and providing a flexible way of allocating bandwidth among multiple users.

Regarding claim 10, the combination of Duncan and Fuse teaches the card is a replacement part for an existing optical multiplexer (Fig. 2 of Duncan).

Allowable Subject Matter

8. Claims 1-3, 5-8, 15-18, 20-23, 25 and 26 are allowed.

Response to Arguments

9. Applicant's arguments filed 09/09/2005 have been fully considered but they are not persuasive.

The applicant's arguments to claims 9 and 10 are not persuasive. The applicant argues that the cited references (copending Application No. 09/809,936, Duncan, Hansen, Hakki, and Fuse) fail to teach the limitation of "**a faceplate having a fiber tap signal device for indicating a fiber tap**" of claim 9. The examiner respectfully disagrees. As indicated in Figure 1, Duncan teaches a faceplate 46 having a fiber tap signal device 38 for indicating a fiber tap (see col. 7, lines 12-23 and col. 8, lines 16-30).

Therefore, it is believed that the limitations of claims 9 and 10 are still met by the combination of Duncan, Hansen, Hakki, and Fuse and the rejection is still maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

HANH PHAN
PRIMARY EXAMINER